HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.14649 OF 2006

Between:

A.Sitaramaraju and another

. . .Petitioners

AND

The State of Andhra Pradesh and others

. . .Respondents

Counsel for the Petitioner : Shri Syed Shareef Ahmed

Counsel for the Respondents : Shri P.Radhakrishna

Dated: 14th September, 2006

: ORDER :

PER G.S.SINGHVI, CJ

In this petition, the petitioners have prayed for quashing notice dated 16.05.2006 issued by Commissioner, Kukatpally Municipality, Ranga Reddy District (respondent No.2 herein) requiring the petitioners to remove unauthorized construction raised in premises No.2-22-275/B situated at Bhagyanagar colony, Kukatpally, Ranga Reddy district.

In the affidavit filed by petitioner No.1 – A.Sitaramaraju, it has been averred that Bhagyanagar Cooperative Housing Society, which was formed for building houses, purchased lands by five registered sale deeds dated 11.06.1982, 23.11.1983, 24.11.1983, and 12.12.1983 and divided the same into plots. All the vendees of the land constituted a partnership firm on 21.01.1984 in collaboration with Shri A.S.Raju. Thereafter, they raised multistoried commercial complex. The petitioners are said to have purchased 1255 square feet of area of the commercial complex. The deponent has further averred that the property purchased by the petitioners has not been constructed in violation of the sanctioned building plan but without giving any notice or opportunity of hearing to them, the respondent has called upon them to remove the so called unauthorized constructions.

We have heard learned counsel for the parties and perused the record.

Since it has not been disputed that the impugned notice was issued without complying with the rules of natural justice, we feel that ends of justice would be met by giving liberty to the petitioners to appear before the Commissioner and produce all the documents to show that

they have not made any unauthorized construction with a further direction to the Commissioner to decide the same within a specified time frame.

Hence, the writ petition is disposed of with the following directions:

1) Within seven days from today, the petitioners shall appear before the Commissioner and produce all documents to show that they have not raised any construction in violation of the sanctioned plan. They shall also be free to raise all legally permissible objections against notice dated 16.05.2006.

2) Within next two weeks, the Commissioner shall consider the objections and documents produced by the petitioners, hear them and pass appropriate order.

3) If the Commissioner comes to the conclusion that the petitioners have made unauthorized construction or any deviation has been made from the sanctioned plan, then he may order demolition of such illegal or unauthorized construction. However, such order shall not be given effect for a period of seven days within which the petitioners shall be free to avail appropriate legal remedy including the one by way of filing fresh petition.

Since the notice impugned in the writ petition was issued in furtherance of the direction given by the Division Bench, we direct that in future, the writ petitions filed in the matter of removal of unauthorized structure or illegal construction shall be listed before the Division Bench as per roster.

We also deem it proper to observe that before issuing notice for demolition, the concerned authorities of the municipality should comply with the rules of natural justice. This would go a long way to

obviate unnecessary litigation.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 14.09.2006

Note: The Court Officer is directed to give attested copies of this order to the learned counsel for the parties.

Kvni/bsc